

[Advisory Opinion 1998-11]

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

December 16, 1998

Pursuant to Section 19A-7 of the Montgomery County Public Ethics Law,¹ a department head requested an advisory opinion on the following questions:

[W]hether a Montgomery County police officer may, consistent with Montgomery County ethics law, write a letter to the editor in which s/he identified him or herself as a Montgomery County Department of Police Officer. If so, would the opinion of the Ethics Commission be the same if the officer also identified him or herself by rank?

APPLICABLE LAW

The pertinent provisions of the Montgomery County Ethics Law are Section 19A-14(a) and (b) of the Montgomery County Code:

- (a) A public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not prohibited by this subsection.

- (b) Unless expressly authorized by the Chief Administrative Officer, a person must not use an official County or agency title or insignia in connection with any private enterprise.

From time to time, the Commission also promulgates regulations as appropriate; however, there is no Ethics regulation pertinent to your questions.

ANALYSIS & OPINION

The emphasized language constitutes essential elements of the two Public Ethics Law prohibitions in this area. Only the intentional use of the prestige of one's office for private gain or the gain of another is prohibited. Similarly, only the unapproved use of an official County or agency title or insignia in connection with any private enterprise is proscribed. Absent such factors, the

¹Section 19A-7 authorizes a department head to ask the Commission for an advisory opinion about the meaning or application of Chapter 19A to the employment-related conduct of any public employee supervised by the department head.

Ethics Law does not prohibit one from identifying himself as a Montgomery County Police Officer, even by rank, in a letter to the editor or otherwise.

Of course, this advisory opinion is necessarily limited to the provisions of the Public Ethics Law as applied to the general questions presented in your letter. The facts of a specific situation could bring a letter to the editor within one of the Public Ethics Law prohibitions; however, the Commission will not speculate about such facts. If you are concerned about a specific situation which you believe satisfies those requirements, you may seek another advisory opinion based on specific factual allegations or file a complaint with the Commission. In addition, other laws or regulations, such as personnel laws and regulations, may prohibit such letters. However, the restraints of other laws and regulations are beyond the ken of this Commission, and we neither express nor intimate any opinion concerning any law or regulation other than the Montgomery County Public Ethics Law.